

THE CHANNEL ISLANDS AND THE EU: FINANCIAL SERVICES

Introduction

1. The Channel Islands (“the Islands”) comprise the Bailiwicks of Guernsey and Jersey. The Islands are autonomous British Crown Dependencies with a direct allegiance to the British Crown which goes back over 800 years. They are not part of the UK, are not represented in the UK (Westminster) Parliament and receive no financial subsidy from the UK government. They have their own parliaments and their own legal systems and have full fiscal autonomy.
2. The Islands have always been outside the EU (“third countries”) for the purposes of financial services regulation. However, as part of a broader “good neighbour” policy, the Islands have built up good cooperation with the EU on financial services regulation, as in other areas such as tax, anti-money laundering and data protection.
3. Over the past 50 years, Guernsey and Jersey have become successful specialist financial centres. The Islands are significant net providers of liquidity and capital via investment funds to the EU economy. They meet international investors’ needs by providing access to a wide range of assets and markets, offering tax transparency, a stringent regulatory environment and a highly skilled professional services sector which makes up almost a quarter of the total workforce.

Financial Regulation and Supervision

4. The Islands operate under robust and internationally recognised regulatory regimes. The Jersey Financial Services Commission (JFSC) and the Guernsey Financial Services Commission (GFSC) are the independent financial regulators in each Island, covering prudential, conduct of business, anti-money laundering and countering the financing of terrorism (AML-CFT) provisions.¹
5. Both regulators proactively work with their EU counterparts, including the European Supervisory Authorities. They are respected for their work in international standard-setting bodies, as active members of the International Organisation of Securities Commissions (IOSCO) and the International Association of Insurance Supervisors (IAIS). This is complemented by frequent engagement by the Islands’ regulators and Guernsey and Jersey government officials with the EU Institutions in Brussels, underpinned by regular Ministerial visits.
6. The Islands’ cooperative and proactive approach is reflected in a European Commission Decision which deems their supervisory and regulatory requirements as equivalent for the purposes of the treatment of banking exposures (renewed in 2019). Both regulators also interact regularly with Member State authorities in the supervisory colleges of cross-border banks.
7. Under the EU Statutory Audit Directive, Guernsey and Jersey were granted ‘equivalence’ decisions in 2013. In June 2016, the European Commission granted an adequacy decision which allows the competent authorities in Jersey, Guernsey, and the EU Member States to transfer audit papers.
8. The Channel Islands Financial Ombudsman was established in 2014 to enhance investor protection by resolving complaints about financial services provided in, or from, the Islands. It is an active member of the International Financial Services Ombudsman Network and is an Official Observer and Affiliate Member of the EU Financial Dispute Resolution Network (FIN-NET).
9. Both Islands’ Company Registers actively participate in the European Business Registry Association (EBRA), the European network of national business registers and information providers from 22 European countries.

Funds

10. The Islands are leading fund domiciles, with institutional and retail funds under management and administration totalling over £814 billion (H1 2021). The nature of capital flows makes it difficult to

¹ For more information on AML-CFT, please see the separate briefing note on “The Channel Islands and the EU: tackling financial crime”.

accurately measure the flow of investment into the EU. However, a 2016 study estimated that Jersey is a conduit for €188 billion of foreign investment into the EU27 (excluding the UK), equivalent to 4% of total net international investment; while a 2020 study of Guernsey's fund management industry identified that, of the £228 billion of Guernsey funds under management and administration, around £77 billion, is invested into assets in Europe. Over half of these funds originated from outside of the EU.

11. More than 50 European Investment Fund (EIF) equity transactions involve Channel Islands domiciled funds, which has enabled investors to support EU start-ups and mid-caps in ICT, the life sciences, energy & environment, and renewable energy.
12. The Islands' regulators were among the first to conclude ESMA-negotiated Memoranda of Understanding (MoU) in relation to the Alternative Investment Fund Managers Directive (AIFMD) concerning managers of hedge funds, private equity, and real estate funds. This has enabled licensed Channel Islands managers to access EU markets through national private placement regimes (NPPR). Jersey and Guernsey received positive assessments by ESMA regarding their suitability for passporting in 2015 and 2016

Banking

13. Both Islands use sterling and are part of the UK's payment and clearing system. There are 20 licensed banks in Guernsey and 23 in Jersey. Both jurisdictions have deposit compensation schemes. The combined level of banking deposits across the Islands is £203.3 billion (as of H1 2021). These deposits are drawn into the UK and the EU largely from the rest of the world.
14. In 2016 the Islands were admitted to the geographic scope of the Single Euro Payment Area (SEPA) cross-border bank payment schemes for credit transfers, direct debits, and debit card purchases, as third countries. As part of this, both Islands have voluntarily transposed the relevant parts of the EU Payment Services Directive (PSD and PSD II) into domestic legislation.

Other aspects of the Islands' FS sector

15. The Islands are leading international **fiduciary** centres, hosting a wide range of services which are governed by modern trust and company law. Trust and Company Service Providers (TCSPs) have been regulated since 2000, meaning TCSPs must hold and keep up to date beneficial ownership information for all companies administered by them. They are subject to routine, ongoing onsite and offsite supervision of all aspects of their activities. A comprehensive global standard for effective TCSP regulation and supervision was created through the Group of International Finance Centre Supervisors (GIFCS) in 2014 and for which Jersey was awarded top ratings in April 2019.
16. The Islands are committed to sustainable finance and recognise the contribution that finance can make to achieving **environmental, social and governance (ESG)** goals. Both Islands support TISE Sustainable, the market segment created on the Guernsey headquartered securities exchange. Both Financial Services Commissions have published codes of practice requirements to counter the risk of greenwashing. Both Islands participate in UN and IOSCO sustainable finance initiatives. 75% of AUM in Guernsey is managed, or administered, by firms conforming with the UN's Principles of Responsible Investments. Guernsey is home to the world first regulated green fund regime and a green insurance capital regime to incentivise sustainable investment by life insurers. In September 2021, the Red Cross-sponsored Dunant Re was awarded the first Guernsey ESG accreditation, covering the risk of volcanic eruptions across three continents. Jersey industry estimates that some £7.4 billion (Sept 2020) is invested in socially responsible investing (SRI) funds. Jersey professionals also set up and service a range of structures which support SRI investment objectives.
17. Guernsey and Jersey actively encourage **technological innovation**, as the finance sector becomes more digitally enabled. Both Islands benefit from high quality digital infrastructure which meets the needs of the community and the economy, underpinned by a legislative and regulatory regime which promotes the use of secure and efficient technology, for instance for electronic customer due diligence. Both Islands offer supportive environments for Fintech and Regtech (Sand Box Jersey and Guernsey's Innovation SoundBox). Both regulators participate actively in the relevant IOSCO committees and are

members of the Global Financial Innovation Network, of financial regulators and related organisations, which has been set up to share experiences and approaches.

18. Guernsey has a substantial and diverse **insurance industry** with assets of £31.39 billion (Dec 2019). Insurers in Guernsey cover a range of specialist risks such as fine art insurance. It is host to Europe's largest captive insurance industry. Guernsey is also home to longevity swap structures that enable, for example, EU Member States' pension schemes to gain direct access to the reinsurance market to insure longevity risk. Guernsey's reinsurance and insurance-linked securities (ILS) sectors provide cover for catastrophe risks around the world. Participating notes issued in Guernsey have been digitised on a blockchain, replacing the role of a traditional settlement system for the note issue. Thanks to cross-sectoral work between the funds industry and the insurance-linked securities (ILS) sub-sector, Guernsey offers the world's first dual-regulated insurance and fund product.
19. Further information about the public authorities in Guernsey and Jersey and other aspects of Channel Islands cooperation with the EU, including on tax and tackling financial crime, can be found on the Channel Islands Brussels Office website.

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